



1 (Proceedings had in open court.)

2 THE CLERK: 14 C 7173, Lewis versus BNSF Rail Way,  
3 motion hearing.

4 MS. SHAW: Good morning, your Honor. Maisha Shaw on  
5 behalf of BNSF.

6 THE COURT: Can you state your -- or spell your first  
7 and last name because we have the -- I don't have a court  
8 reporter, as you can see --

9 MS. SHAW: Sure.

10 THE COURT: -- but we have the tape running --

11 MS. SHAW: Okay.

12 THE COURT: -- and so I need everybody to speak  
13 clearly.

14 Go ahead.

15 MS. SHAW: Sure. Maisha, M-a-i-s-h-a, last name is  
16 Shaw, S-h-a-w. And, again, your Honor, on behalf of BNSF Rail  
17 Way Company.

18 THE COURT: Thank you.

19 Go ahead.

20 MR. LEWIS: Good morning, your Honor. How are you  
21 doing this morning?

22 THE COURT: Good morning.

23 MR. LEWIS: Simeon, S-as in Sam-i-m-e-o-n, last name  
24 is Amen, A-m-e-n, space, R-a, Amen Ra.

25 THE COURT: Okay. And you are the plaintiff, and you

1 filed the emergency preliminary injunction --

2 MR. LEWIS: Yes.

3 THE COURT: -- along with a complaint. And that was  
4 assigned to Judge Lee, who is on trial. And as you know, he  
5 referred it to me for what's called a report and  
6 recommendation. In other words, he'll be making the ultimate  
7 decision, but he asked me to look at the papers and have you in  
8 to talk about this issue. And I have reviewed the papers, and  
9 I do have some questions.

10 But let me just ask defendant, since you have not  
11 filed anything, what is your position on the motion for a  
12 preliminary injunction?

13 MS. SHAW: Sure, your Honor. And as this  
14 Court -- Court's review would (unintelligible) we are prepared  
15 to prepare something in this writing and fully provide the  
16 Court with documentation to support what we have done, and we  
17 can do that in short order.

18 Our position, though, regarding the injunctive relief  
19 that plaintiff counsel has sought, he raises two issues: One,  
20 that we were withholding taxes without accord or without any  
21 justification of doing so; and, second of all, that we were  
22 withholding child support payments without any authorization to  
23 do that as well.

24 We have full documentation to support what we have  
25 done from the IRS, who required us to withhold -- I have some

1 of the documentation with me today in court -- that requires us  
2 to withhold for the period of time that we did. We held it,  
3 and we were required to withhold it, according to their  
4 instructions, until they authorize the release.

5 We did receive a release on June of 2014. June 13th  
6 to be exact. And according to our records, at that point the  
7 taxes were no longer -- for the levy, not his regular taxes,  
8 but the levy that the IRS had put on us, we stopped that. And  
9 the last withholding was from June 4th, 2014. And so we have  
10 been in compliance with the IRS's requirement per the laws and  
11 the rules.

12 THE COURT: So any withholding now is just for the  
13 ongoing wages?

14 MS. SHAW: Ongoing wages.

15 And there is two things here. One, plaintiff's  
16 counsel -- plaintiff here has sent letters to BNSF claiming  
17 that he is a part of a religion or an organization called the  
18 Moorish Nation and is therefore --

19 MR. LEWIS: Objection. No, I have not.

20 THE COURT: I'll let you respond.

21 MS. SHAW: Okay.

22 THE COURT: Sorry.

23 MR. LEWIS: Okay.

24 THE COURT: Go ahead.

25 MS. SHAW: Well, we have -- we have a letter that he

1 sent to our director of HR claiming sovereignty from taxes.  
2 And I don't know if that's an issue right now. But we have  
3 responded back saying that we have to comply and withhold the  
4 proper withholdings. We also have to comply with the IRS's  
5 rule.

6 With respect to the second issue, which is this child  
7 support issue, again we have documentation. And there is  
8 additional documentation that we're trying to get from the  
9 state court. We have received documentation that there was a  
10 judgment entered against the plaintiff for child support in  
11 2004 initially. And we received notice that we were to garnish  
12 his wages starting in 2009 due to lack of payment. We honored  
13 that until 2011 when there was a release, and we did that.

14 There was another action filed in state court for two  
15 separate children starting in 2007. And, likewise, in June of  
16 this year we received notice that we were to garnish wages for  
17 lack of payment for the child support, which we are doing.

18 So everything we're doing, like I said, is due to  
19 requirements that have been placed on BNSF by the law, IRS, and  
20 other court orders. And if the Judge would give us an  
21 opportunity, we would file a brief and supply the Court with  
22 documentation.

23 THE COURT: All right. Thank you.

24 Go ahead, Mr. -- should I call you Amen Ra?

25 MR. LEWIS: Amen Ra.

1 THE COURT: Amen Ra.

2 MR. LEWIS: Yes.

3 THE COURT: Okay.

4 MR. LEWIS: Yes.

5 THE COURT: Go ahead.

6 MR. LEWIS: Basically the issue here is, your Honor,  
7 there was a notice of levy sent to BNSF, and they honored it as  
8 if it was an actual levy. I presented documentation to the  
9 BNSF that on that notice of levy, the IRS somehow has my  
10 address listed as one in the same as the U.S. Department of  
11 Treasury in Washington, D.C. That was the first flag that I  
12 tried to inform BNSF about.

13 Secondly, they received a notice of levy. There has  
14 been no court action. I have never been to court with --  
15 against the IRS or been summoned to come to court by the IRS  
16 based on owing back taxes. So there is nothing, no -- there  
17 has never been a levy.

18 THE COURT: Are you -- right now as we stand here  
19 today, is it your position that the employer continues to  
20 withhold for a levy or are you in agreement that that levy that  
21 they are no longer withholding as of June 2014?

22 MR. LEWIS: They are no longer withholding based on  
23 the notice of levy that they received --

24 THE COURT: Okay.

25 MR. LEWIS: -- from the IRS.

1 THE COURT: All right. So what -- what are they  
2 withholding --

3 MR. LEWIS: What they are --

4 THE COURT: -- now that you say --

5 MR. LEWIS: What --

6 THE COURT: -- stop withholding in the future?

7 MR. LEWIS: What they are withholding right now is  
8 what they have listed on my pay is a federal income tax. I  
9 instructed the BNSF back in 2011 to stop all withholdings from  
10 my pay until I got to the bottom of what the issue was with the  
11 IRS.

12 THE COURT: Okay. Why should you not have taxes  
13 withheld --

14 MR. LEWIS: Because I --

15 THE COURT: -- for wages?

16 MR. LEWIS: -- they -- because I have a right not to  
17 have any withholdings from my pay based on the United States  
18 Code, as well as the CFR. I gave those --

19 THE COURT: Are you different from other citizens who  
20 do have to have taxes withheld?

21 MR. LEWIS: I am -- if they have to have taxes  
22 withheld, your Honor, that's their situation --

23 THE COURT: Correct.

24 MR. LEWIS: -- and I can't speak to anybody --

25 THE COURT: What is your --

1 MR. LEWIS: -- else's --

2 THE COURT: What is your status that gives you the  
3 right not to have taxes withheld?

4 MR. LEWIS: The status is Title 26 --

5 THE COURT: Uh-huh.

6 MR. LEWIS: -- United States Code.

7 THE COURT: And is there a court decision that's  
8 -- agrees with your position that you are not to have taxes  
9 withheld?

10 MR. LEWIS: Oh, there are -- there are a ton of them,  
11 your Honor, but it is voluntary. And I have read that -- I  
12 have given all types of --

13 THE COURT: All right.

14 MR. LEWIS: -- information to the BNSF. And if you  
15 would give -- allow me, I can read it to you directly.

16 THE COURT: Does the -- is B -- is the railroad  
17 withholding now based on the IRS requesting it to withhold? I  
18 understand it is not for the levy. But is the ongoing  
19 withholding, is that requested by the IRS?

20 MR. LEWIS: The ongoing withholding --

21 THE COURT: Hold on. I'm asking defense counsel.

22 MR. LEWIS: Okay.

23 THE COURT: Go ahead.

24 MS. SHAW: The ongoing withholdings are the  
25 withholdings that every citizen, every employee of BNSF, and

1 every citizen has federal and state taxes withholdings. They  
2 are the regular ones that everyone receives. That is what is  
3 being withheld.

4 THE COURT: Okay.

5 MS. SHAW: And I do have the letter here where  
6 plaintiff submitted to BNSF claiming to be -- I guess claiming  
7 to be of a certain treaty to receive immunity of some sort  
8 from --

9 MR. LEWIS: Objection.

10 MS. SHAW: -- the tax requirements. And this is not  
11 something that we see recognized by the law or any court. And  
12 so we are withholding what we would have to withhold for every  
13 citizen.

14 We have here a complaint to be a national, in addition  
15 to Moor, M-o-o-r. We have case law -- or I have case law where  
16 the United States has not recognized this as a sovereign nation  
17 in the United States and is not exempt from the laws of the  
18 United States, including the tax laws.

19 So the current withholdings right now are the regular  
20 federal and state withholdings.

21 THE COURT: All right. Go ahead --

22 MR. LEWIS: And, your Honor --

23 THE COURT: -- Mr. --

24 MR. LEWIS: -- what she's -- what they are not --

25 THE COURT: -- plaintiff.

1           MR. LEWIS: -- showing you is the credential that I  
2 presented to the BNSF were authorized -- authentic -- not  
3 authorized, but authenticated by the Secretary of State  
4 Condoleezza Rice. It has nothing to do with what she's  
5 referring to as the Moorish Science Temple. Nowhere in my  
6 documentation have I referred to being a part of any religious  
7 entity because that's what the Moorish Science Temple is.

8           THE COURT: Okay.

9           MR. LEWIS: Nowhere in my complaint is a -- in my  
10 complaint or pleadings have I said that, your Honor.

11          THE COURT: All right. So your position is, no,  
12 the -- you are not required under the Constitution to pay  
13 taxes?

14          MR. LEWIS: No, my position is I have a right, a  
15 voluntary right, to have withholdings or not have withholdings.

16          THE COURT: Well --

17          MR. LEWIS: If the IRS has an issue with me, they can  
18 speak to me. They have my address, they have my phone number  
19 on April 15th.

20          THE COURT: Well --

21          MR. LEWIS: I do not have a W-4 on file, which is a --  
22 my right by law.

23          THE COURT: Okay.

24          MR. LEWIS: There is no W-4 on file. I have a  
25 certificate of standing and a certificate of authority

1 explaining to the BNSF my voluntary right not to have federal  
2 income taxes withheld from my pay. It has nothing to do with  
3 any status. It is based on the United States Code. They have  
4 it.

5 And if you allow me, I can read it to you --

6 THE COURT: No, I --

7 MR. LEWIS: -- where it says it is voluntary.

8 THE COURT: -- don't want to do that. I don't want to  
9 do that right now.

10 So I understand the parties's positions. What I am  
11 going to do is I am going to let BNSF file a written response.  
12 And you can attach whatever communications from the IRS.

13 It seems to me there is no dispute about the levy.  
14 You're welcome to address it if you would like.

15 And I don't know about the issue -- I mean, one issue  
16 is just whether this is a dispute between -- in terms of the  
17 withholdings, I don't know if the IRS is requiring that, if  
18 BNSF is required to do it. You know, that's also a different  
19 question of whether you are properly here or on a motion for  
20 preliminary injunction in federal court. All right? So that  
21 is one question.

22 On the child support issue, I don't understand why  
23 that would be in federal court at all. Why -- what's your  
24 argument on the --

25 MR. LEWIS: Because --

1 THE COURT: -- child support?

2 MR. LEWIS: -- there is no child support issue. I  
3 have a --

4 THE COURT: Well, why don't you go to -- all right.  
5 So on that BNSF says they have some kind of court order that is  
6 requiring them, so they'll attach that to their response.

7 MR. LEWIS: Okay.

8 THE COURT: It seems to me that may be an issue that  
9 needs to be raised in state court before whatever judge may  
10 have entered that order.

11 If there is no such order --

12 MR. LEWIS: There is not, your Honor.

13 THE COURT: Again, I don't know why that's in federal  
14 court. But I will -- you'll at least see what -- why they are  
15 withholding based on what they believe to be a valid state  
16 court order that requires the withholding.

17 All right. So what I will do is give BNSF an  
18 opportunity to file their written response, and then I will  
19 rule after that.

20 If Mr. --

21 MR. LEWIS: Amen Ra.

22 THE COURT: -- Amen Ra wants to file a response, you  
23 can do that.

24 Let me ask counsel for BNSF, what date can you have  
25 your written response on file?

1 MS. SHAW: Your Honor, can I just check with my  
2 calendar?

3 THE COURT: Sure.

4 MS. SHAW: We do have that Seventh Circuit brief due  
5 next (unintelligible).

6 (Brief interruption.)

7 MS. SHAW: Can I have 21 days, your Honor?

8 THE COURT: Yes. So hold on.

9 And, Mr. Amen Ra, would you like to file a response  
10 after you read what BNSF files?

11 MR. LEWIS: Absolutely.

12 THE COURT: All right. And how much time after you  
13 get their document would you like in order to file your written  
14 reply?

15 MR. LEWIS: Fourteen days.

16 THE COURT: Okay.

17 THE CLERK: Response October 22nd.

18 THE COURT: And then the reply.

19 THE CLERK: November 5th.

20 THE COURT: All right. So you have -- you'll be  
21 getting the response of BNSF on October 22nd.

22 And that will be filed electronically. And  
23 you're -- are you set up where you're getting the electronic  
24 notification?

25 MR. LEWIS: Yes, I am, your Honor.

1 THE COURT: All right. So you'll get that.

2 And you'll mail it also.

3 MS. SHAW: Yes.

4 THE COURT: And then the reply will be filed on  
5 November 5th.

6 And you'll -- do you know how to file that  
7 electronically?

8 MR. LEWIS: No, I'll -- more than likely I'm just  
9 going to tender it in person because it is --

10 THE COURT: All right. Well, how would you like him  
11 to provide that to you, the reply?

12 MS. SHAW: Ummm --

13 THE COURT: By mail?

14 MS. SHAW: By mail.

15 THE COURT: Okay.

16 MS. SHAW: And he has, I think, been sending by --

17 THE COURT: All right.

18 MS. SHAW: -- mail, but --

19 THE COURT: So that you can mail that.

20 MS. SHAW: But if I can just ask, your Honor, now that  
21 I have stepped (unintelligible) counsel, I think he's been  
22 mailing things directly to BNSF. But just to make sure I get  
23 it quickly, my appearance is on file, and I would also ask if  
24 he can send it to me.

25 MR. LEWIS: Okay. I'll I don't have a problem with

1 that.

2 THE COURT: And to the law firm. Okay.

3 All right. Then I will -- after I review the  
4 documents, I will either set a date to have you back in or I'll  
5 issue some kind of written ruling. And that will be done,  
6 obviously, electronically so you'll get notification of that.

7 MS. SHAW: Uh-huh.

8 THE COURT: All right. Thank you.

9 MR. LEWIS: And I just had one question, your Honor.

10 THE COURT: Yes.

11 MR. LEWIS: After BNSF receives my reply, how much  
12 time will we have before there is a scheduled -- another  
13 scheduled hearing?

14 THE COURT: Well, that's what I am going to determine  
15 after I read the documents. So I will read them quickly, as  
16 soon as I get the documents. And then you'll see an order from  
17 me either having you come back in or I'll just issue a ruling  
18 -- or recommendation to Judge Lee. It wouldn't be my ruling,  
19 it would be a recommendation to him.

20 MR. LEWIS: And just so I'm correct, you stated  
21 earlier that Judge Lee will be answering the complaint.

22 THE COURT: Well, the case is assigned to him --

23 MR. LEWIS: Okay.

24 THE COURT: -- so any -- everything will happen before  
25 him, except he referred this motion to me. So I'll make a

1 recommendation of whether he should grant or deny the motion.

2 MR. LEWIS: Okay.

3 THE COURT: All right. Thank you.

4 MR. LEWIS: Thank you, your Honor.

5 MS. SHAW: Thank you, your Honor.

6 (Which concluded the proceedings.)

7 CERTIFICATE

8 I certify that the foregoing is a correct transcript  
9 from the digital recording of proceedings in the above-entitled  
10 matter to the best of my ability, given the limitation of using  
11 a digital-recording system.

12  
13  
14 **/s/ Pamela S. Warren**  
Official Court Reporter  
15 United States District Court  
Northern District of Illinois  
16 Eastern Division

March 18, 2015  
Date

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